

REMARKS

This Amendment and these remarks are being submitted in response to the Office Action mailed in this application on March 27, 2007. A Request for a One-Month Extension of Time and a Notice of Appeal accompany this Amendment. Claim 1 has been amended, and claims 1-3, 5, 7, 8, 10, 11, 14, 19 and 20 remain pending in this application. Entry of this Amendment, and reconsideration of this application, are respectfully requested.

Claims 1-3, 5, 7, 8, 10, 11, 14, 19 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,494,852 (Barak, et al.) in view of U.S. Patent No. 6,589,194 (Calderon, et al.). Applicants respectfully traverse this rejection.

As previously discussed, Barak, et al. is directed to a device in which the thickness of the sleeve is reduced by providing interconnected compartments within each cell. The approach Barak, et al. have taken to making the device portable is to focus on reducing the thickness of the sleeve so that a reduced volume of air is needed to apply a suitable pressure to the limb. Barak, et al. have not been concerned with reducing the number of cells by identifying which cells are instrumental to the operation of the device. Moreover, the device of Barak, et al. includes one or more cells applied to the thigh. Applicants' claimed invention focuses on providing cells below the knee of the patient in order to provide effective treatment to the patient. Barak, et al. suggests that the number of cells can vary, but says nothing concerning the positions of those cells. Barak, et al. presents the device as including a thigh cuff. (See, for example, Figs. 1 and 2.) Given that Barak, et al. is concerned with making the device portable, and this is done by reducing the thickness of the sleeve so that a reduced volume of air is needed to apply pressure, it follows that if Barak, et al. believed the device would be effective without the presence of a thigh cuff, it would have been eliminated. It is not. Thus, from reading Barak, et al., one of ordinary skill in the art would believe that it is essential to pressurize the thigh in order to obtain benefit from that device. If Barak, et al. would have believed otherwise, the device would have ended below the knee.

It is asserted in the Action that Barak, et al. teaches that it would have been obvious to limit the Barak, et al. device to include only a below the knee leg cuff and a foot cuff like the device in Calderon, et al. However, Barak, et al. does not teach that treatment only below the knee is effective. The Barak, et al. device, for use on the leg, has a thigh cuff and a lower leg cuff. It is nowhere suggested that the thigh cuff can be eliminated. Moreover, the cells in Barak, et al. are independently controllable. Consequently, if the user wanted to treat only below the knee, it would be possible to use the full sleeve with thigh and lower leg cuff to do so merely by programming the controller to inflate only the lower leg cells. The thigh cuff would still be present. Barak, et al., however, does not suggest this. In fact, the opposite is taught. From the passage at column 6, line 63, through column 7, line 4, it is apparent that for a sleeve with a thigh and lower leg cuff with six cells, the control unit operates as shown in Fig. 7. This involves all the cells. There is no suggestion in Barak, et al. that some of the cells need not operate.

The Action relies on the passage at column 4, lines 14 to 15, which states that the invention can be used on “a part of a leg”. Applicants submit that the device shown in Figs. 1 and 2 of Barak, et al. *is* being used on a part of a leg in that the cuffs do not cover the knee, the ankle, or the upper thigh. The statement is therefore consistent with the device shown by Barak, et al. in Figs. 1 and 2 which includes a thigh cuff. The Examiner’s attention is further drawn to the description of the prior art in Barak, et al. At column 1, lines 34 to 35, the prior art devices are described as “big and ungainly”, and they are said to “restrict[s] the movement of the limb it encompasses”. This passage suggest that the prior art devices are used on the whole leg and, taken in this context, the device of Barak, et al., as shown in Figs. 1 and 2, is used on part of a leg. One of ordinary skill in the art, reading the passage at column 4, lines 14 to 15, therefore would not be motivated to eliminate the thigh cuff of Barak, et al.

The Action also relies on the passage in Barak, et al., at column 10, lines 34 to 35, which states that “[T]he number of cells in the sleeve can vary, according to desired treatments” (emphasis added). In the context of Barak, et al., the word “cell” is used to describe the compartments or bladders in each cuff. See, for instance, Fig. 2 where the cells are labeled **2**. Further, see column 4, lines 25 to 29, where it is explained, “The

sleeve **1** has an inner and outer surface composed of a durable flexible material and is divided into a plurality of cells **2** along its length and each cell is connected to the control unit **3**...” The passage at column 10, lines 34 to 35, is therefore saying that each cuff can have any number of *cells*. It does not say that the number of cuffs can vary. It certainly does not say that the thigh cuff can be eliminated. Contrast this passage to Applicants’ claims which specify that the device consists of a leg cuff and a foot cuff, the leg cuff consists of only three cells, and those three cells have stated positions. Barak, et al. is saying that any number is appropriate and gives no guidance on what is most effective.

Next, there is a very large gap between the passages cited in the Action and the conclusion that one of ordinary skill would find it obvious to combine Barak, et al. and Calderon, et al. to treat the lower limb. Barak, et al. gives no indication that such a device would be effective. Moreover, the teaching of Barak, et al. overall is that the sleeve has both a thigh and a lower leg cuff. Barak, et al. does not suggest that it is possible to eliminate the thigh cuff and it certainly does not teach that doing so would make an effective device.

Barak, et al. refers at column 1, line 65, through column 2, line 7, to prior art devices of the type that use a foot pump like that used by Calderon, et al. Barak, et al., however, teaches that focusing on the pump is a mistake and it was this focus that meant that no major breakthroughs in terms of the size of the sleeve/pump unit, its power source or mobility during use, were accomplished. Barak, et al., teaches that what one of ordinary skill should be doing is improving the use of the pumped air. These statements by Barak, et al., concerning foot pumps, would not motivate one of ordinary skill to combine the teachings of Calderon, et al., with those of Barak, et al. especially since Barak, et al. tells one of ordinary skill that no breakthroughs can be made in this way. This disincentive, coupled with the other disincentives in Barak, et al. for eliminating the thigh cuff, mean that one of ordinary skill would not make the combination suggested in the rejection.

The Action further relies on the very general statement in Barak, et al. that - “Although the present invention has been shown and described with respect to several preferred embodiments thereof, various changes, omissions and additions to the form

and detail thereof, may be made therein, without departing from the spirit and scope of the invention.” This very general statement would not suggest to one of ordinary skill that the thigh cuff of the leg device could be omitted. Rather, one of ordinary skill would realize that many patents include this general statement and give the statement no weight.

With respect to claims 8 and 20, these claims feature a sock interposed between the device and the patient. Calderon, et al., at column 2, lines 65 to 67, states that “Related objects include ... avoiding the need for accessories such as additional wraps, straps, stockings or sandals”. Thus, while Calderon, et al. accepts that a sock may be present, its aim is to avoid them. Claims 8 and 20 are not, therefore, obvious over a combination of Barak, et al. and Calderon, et al.

At least for these reasons, Applicants request that this rejection be withdrawn.

In view of the foregoing, entry of this Amendment, reconsideration of the application, and allowance of the application with claims 1-3, 5, 7, 8, 10, 11, 14, 19 and 20, are all respectfully requested.

Respectfully submitted,

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